

MEMORANDUM



TO: Stephen Gardner, Department of Planning (#62)

FROM: Larr Kelly, Zoning Division, Department of Building and Development (#60)

DATE: July 2, 2009

RE: ZCPA 2006-0003/ZMAP 2006-0011: Stone Ridge

As requested, I have reviewed the draft proffers, dated June 16, 2009, for the above referenced Zoning Concept Plan Amendment/Zoning Map Amendment application. Pursuant to this review, I offer the following comments:

1. In regard to the preamble, I note that the description of "the Property" does not include Land Bays 2, 3 or 4. However, a number of the proffer changes impact these land bays. I suggest that these land bays be included. In addition, I note that the proffers pertaining to the middle school site are being amended, but that the middle school site itself has not been included in the description of "the Property". I suggest that this site be included as well. Similarly, the proffers for the library site are being amended, but the land on which the library is to be located is not included and would not be subject to these proffers. I suggest that the land for the library should also be included in this application.
2. In further regard to the preamble, I note that while the applicant has referred to the mapping of a portion of the Property to the PD-H4 Zoning District, there is no mention of how those portions are to be administered. In the initial zoning for Stone Ridge, it was mentioned that the PD-H4 portion of the Property would be administered as R-8. If that is still the intent, then I suggest that this be clarified.
3. In regard to proffer I., in the second line thereof, I suggest that the phrase "entitled 'Stone Ridge Commercial ZMAP 2006-0011/ZCPA 2006-0003' and" be inserted following the word "plans".
4. In regard to proffer I.A., Land Bay 1, I note that the applicant has indicated that this Land Bay may no longer be developed as residential units, but may instead be developed with any other use allowed in the TR-1UBF Zoning District. It is not clear if this proposed language change is intended to mean that if another use is developed then none of the 94 residential units will be constructed, or whether the intent is to allow for a mix of uses. I suggest that this be clarified.
5. In further regard to proffer I.A., in the last line thereof, the applicant states that the water tank site is identified on the CDP as "PIN: 247-19-1835". However, the

site is not so identified on the CDP. Instead it is labeled "Dulles South Water Tank Site". While the PIN is accurate, the statement is not consistent with what is on the CDP. I suggest that this inconsistency be eliminated.

6. In regard to proffer I.B.1., in the first line thereof, I suggest that the phrase "in Land Bay 5R" be inserted after the phrase "Active Recreation Facility".
7. In regard to proffer I.C.1.a., in the third line thereof, I suggest that the number "6" be inserted prior to the term "ADUs".
8. In further regard to proffer I.C.1.a., in the sixth line of the proffer, the applicant has indicated that the total contribution for the "consolidated land bay", which I presume means the combined Land Bays EE2 and EE2A, would equal \$12,611 x 84 or \$1,059,324. However, 84 is the number of market rate units in Land Bay EE2A alone, and this proposed contribution would not include any contribution for units in Land Bay EE2. This does not seem appropriate. I suggest that staff review this proposed capital facilities contribution for sufficiency. However, the proffer goes on to state that all market rate units in the consolidated land bay (EE2 and EE2A) beyond the 84 units shall be subject to the capital facilities contribution specified in ZMAP 2002-0013/ZCPA 2002-0004. This amount also appears to be \$12,611 and I do not understand why these units are being treated separately. I suggest that this proffer be clarified.
9. In further regard to proffer I.C.1.a., I note that the applicant states that there will be 84 market rate units, apparently in Land Bay EE2A, which leaves 6 ADUs in that Land Bay. However, Note 1 on Sheet 4 does not indicate that any ADUs will be provided in Land Bay EE2A. I suggest that this inconsistency be eliminated. Similarly, the same note fails to mention any ADUs for Land Bay EE2. If there are ADUs in this Land Bay, I suggest that this note be amended to so state.
10. In further regard to proffer I.C.1.a., I note that the trigger mechanism is being changed from the first residential zoning permit in Land Bay EE2A to the first residential zoning permit in the consolidated land bay (EE2A and EE2). However, not all of Land Bay EE2 is the subject of this application and it is unclear how this change can be effective against Land Bay EE2 if it is not included within this application. I suggest that the entire Land Bay be included in the application.
11. In regard to proffer I.C.1.a.(i), I note that the applicant proposes to construct a clubhouse and swimming pool prior to the issuance of the 80th residential zoning permit in Land Bay EE2A or the 250th residential zoning permit in combined Land Bays EE2 and EE2A. Pursuant to proffer I.C.1.a., Land Bay EE2A is limited to 90 multi-family units, while the CDP states that Land Bay EE2 is limited to 84 multi-family units. If this is the case, then only 174 residential units

could be constructed on the combined land bays, and the 250th unit would never be reached. I suggest that the unit counts be clarified.

12. In regard to proffer I.D., I note that the applicant is proposing to create a new Land Bay EE1A, which is to be zoned PD-CC(SC). However, the size of this proposed rezoning is only 2.9 acres, while the minimum size for a PD-CC(SC) zoning district is 20 acres. Given the proposed size of the district, it appears that PD-CC(NC) would be more appropriate, and this district allows for the proposed commuter parking lot use as well, although a special exception would be required if this use is to constitute 100% of the uses for the proposed district. I suggest that consideration be given to changing the proposed district to PD-CC(NC).
13. In regard to proffer I.E.1., I note that the applicant has created a new subparagraph "a". I question whether there is any intent to have any other subparagraph under proffer I.E.1. Subparagraph "a" addresses Land Bay 8 now, instead of Land Bay 7, as it previously did. So, it begs the question as to whether a subparagraph "b" addressing Land Bay 7 was intended.
14. In further regard to proffer I.E.1., in the last line of subparagraph "a", I suggest that the phrase "as shown on the CDP" be retained.
15. In regard to proffer I.E.2., I again note that there is a subparagraph "a" with no other subparagraphs. I question whether there was intended to be another subparagraph "b", perhaps dealing with Land Bay FF2A, as this paragraph only deals with Land Bay FF2B. I suggest that this be clarified.
16. In regard to proffer I.F., concerning pedestrian access, I suggest that the trail network proposed by the applicant should connect to the stream valley trail proposed in proffer III.B.4. However, no such connection is shown on the CDP. I suggest that this be addressed.
17. In regard to proffer I.G., concerning the Stone Ridge Development Summary, I note that the amount of office that could be developed in Stone Ridge is now 852,946 square feet. I urge staff to review this level of office development to ensure that the proposed road network is capable of serving it.
18. In regard to proffer II.B.3., I note that in the last line thereof, the applicant states that construction of Route 50 improvements shall commence "prior to the issuance of the first residential zoning permit in Land Bays 1, 2, 3, 4, or 5R". However, in proffer I.A., the applicant indicates that development other than residential may occur in Land Bay 1. If that's the case, it is not clear what will happen in the event that Land Bay 1 develops with other than residential uses. As written, such development will not trigger the Route 50 improvement requirement. I urge staff to review this to determine if non-residential

development in Land Bay 1 is acceptable without the Route 50 improvements, or whether non-residential development in Land Bay 1 should also trigger the need for the Route 50 improvements.

19. In regard to proffer II.B.4.(c), in the ninth line thereof, I again note that a trigger mechanism, this time for intersection improvements to the Route 50/Future West Spine Road Intersection, is based on the issuance of the first “residential” zoning permit in Land Bays 1, 2, 3, 4, or 5R. I again urge staff to review this provision in light of the applicant’s proposed change to proffer I.A., and the potential use change in Land Bay 1.
20. In regard to proffer II.B.4.(d)(i), I note that the applicant’s agreement to the closure of existing Gum Springs Road/Route 50 intersection requires that VDOT actually accept Stone Springs Boulevard, between Route 50 and the North Collector Road, for maintenance. I suggest that this be changed to “open for use”.
21. In regard to proffer II.B.4.(d)(iv), I note that the applicant has stated that the portion of Gum Springs Road between Route 50 and the North Collector Road must be abandoned by VDOT and/or the County before they will agree to the closure of the existing Gum Springs Road/Route 50 intersection. I do not see a connection between the need for such abandonment and the closure of the intersection. I suggest that this item be deleted.
22. In regard to proffer II.B.6., concerning Millstream Drive Extended, in the first line thereof, I suggest that the phrase “Millstream Drive westward and southward to Tall Cedars Parkway” be changed to “Millstream Drive westward and southward from its current terminus to Tall Cedars Parkway”.
23. In further regard to proffer II.B.6., in the third line thereof, I note that the applicant has proposed that the width of the road will narrow from 64 feet to 52 feet “at its intersection with Tall Cedars Parkway”. Usually, roadways widen at intersections to accommodate turn lanes. I urge staff to review the appropriateness of this reduction in roadway width.
24. In regard to proffer II.B.7., Phasing Plan, I note that the applicant intends to change the restriction on the cumulative number of residential zoning permits for Land Bays 1, 2, 3, 4, and 5R. Currently, the restriction limits to 300 the number that can be issued within two years of the approval of ZMAP 2002-0013/ZCPA 2002-0003. However, the applicant proposes to change this to read “prior to the construction of the improvements listed in Phase IIIB of Exhibit B”. It is not clear how this change can be made effective against Land Bays 2, 3, and 4, as they are not part of this application. In essence, you would have Land Bays 2, 3, and 4 subject to the two year restriction and Land Bays 1 and 5R subject to the

construction of improvements provision. I suggest that Land Bays 2, 3 and 4 be made a part of this application in order to avoid such a split.

25. In further regard to proffer II.B.7., I note that the applicant's proposed trigger for construction of improvements in Phase IIIB is the 301st residential zoning permit in the combined Land Bays 1, 2, 3, 4, and 5R. However, if Land Bay 1 does not develop with residential uses, as stated in proffer I.A., then this number will never be reached. Land Bays 2, 3, 4, and 5R, combined, are capped at 289 units, as stated in proffer I.B. I believe that the proposed change to Land Bay 1 causes a serious problem with the proposed Phasing for the entire project. I strongly suggest that changes to the phasing plan and to the trigger mechanism need to be addressed if Land Bay 1 does not develop with residential uses.
26. In regard to proffer II.C.3.(a), in the third line thereof, I suggest that the word "formerly" be changed to "a.k.a.", as the CDP still refers to "Northstar Boulevard" as Route 659 Relocated, as do numerous references within the proffers.
27. In further regard to proffer II.C.3.(a), I note that while dedication of right of way for Route 659 Relocated, from Tall Cedars Parkway to the southern property line is addressed, I do not see any dedication for right of way from Tall Cedars parkway to the northern property line. The CDP states that this right-of-way is reserved per ZMAP 2002-0013. However, I cannot find such provision in the proffers for ZMAP 2002-0013. I urge staff to be sure that this right of way reservation for future dedication has been adequately addressed.
28. In further regard to proffer II.C.3.(a), in the last sentence thereof, I note that the applicant has included a provision that addresses the possibility that Land Bay 1 may be developed as other than residential, by including a new, alternative, trigger tied to the first zoning permit issued in Land Bay 1. However, this only addresses this one particular improvement. It does not address the entire Phase IIIB situation if Land Bay 1 is not developed with individual residences.
29. In further regard to proffer II.C.3.(a), the first trigger for the Route 659 Relocated is currently listed as the 301st residential zoning permit in Land Bays 1, 2, 3, 4 or 5R. I suggest that this be changed to read "the 301st residential zoning permit, cumulatively, in Land Bays 1, 2, 3, 4 and 5R".
30. In regard to proffer II.F., in the third line thereof, I suggest that the phrase "during site plan review process" be changed to "in conjunction with submission of the first site plan".
31. In further regard to proffer II.F., concerning the signal at Stone Springs Boulevard and Millstream Drive, I note that this signal is internal to the development, and I

do not understand why the applicant would pay for the signal as opposed to installing the signal. I suggest that this be considered.

32. In regard to proffer III.A.2., concerning the Middle School Site, I note that the site itself is not part of this application. Therefore, the proposed change to the proffer will not apply to the site itself. I suggest that consideration be given to including the site in this application.
33. In further regard to proffer III.A.2., I note that throughout the proffer the "Developer" is referenced instead of the "Owner". I suggest that this inconsistency be eliminated.
34. In further regard to proffer III.A.2., I do not understand the applicant's intent. The applicant has proposed that \$550,000 of the capital facilities funds contributed by the Owner may be drawn to finish grade the school site. It is not clear if the intent is for the applicant to provide such funds at the time needed in the event that they have not yet been contributed. Currently, it says that the funds are to be drawn "from the funds contributed" while the applicant then mentions "to the extent the Developer advances such funds" they shall receive a credit against the contributions required by Proffer III.F. I suggest that this be clarified.

The applicant then states that "the balance of the \$550,000 shall be used to reimburse either the County or the Developer for the construction of the commuter parking facility on Public Use Site #4". It is not clear if this \$550,000 is sufficient to both grade the school site and pave the parking facility. If it is anticipated that it is, then I suggest that it may be better to simply have the applicant proffer to do both and avoid the confusing aspect of how these funds are to be used to reimburse anyone. The applicant has already indicated the intent to receive a credit for these funds anyway and it is not clear what happens in the event that these funds are not sufficient to do both project. However, I note that currently there is no mention of this credit in proffer III.F., which deals with the capital facilities contribution and lists all other credits. I suggest that this provision be clarified.

35. In regard to proffer III.B.1., in the first line thereof, I suggest that the reference to the "Developer" be changed to the "Owner". Additionally, in the second and third lines of the proffer, I suggest that the phrase "shown on Sheets 4 and 5 of the Concept Development Plan" be changed to "shown on the CDP".
36. In regard to proffer III.B.3., I note that the proposed trigger mechanism for the contribution towards a concession stand at Byrne Ridge Park is the "301st residential zoning permit in Land Bays 1, 2, 3, 4 or 5R". I again point out the problem of this proposed trigger mechanism in the event that Land Bay 1 is developed with other than residential uses, in that there are only 289 residential

units planned for Land Bays 2, 3, 4, and 5R combined. I suggest that this be addressed. I also suggest that the term "301st residential zoning permit in Land Bays 1, 2, 3, 4, or 5R" be changed to "301st residential zoning permit, cumulatively, in Land Bays 1, 2, 3, 4, and 5R".

37. In further regard to proffer III.B.3., concerning a contribution towards the concession stand at Byrne Ridge Park, I note that this is a new proffer and that it is subjecting Land Bays 2, 3 and 4 to its terms, even though these land bays are not included in this application. I suggest that they be included.
38. In regard to proffer III.B.4., concerning the grant of an easement within the South Fork of the Broad Run stream valley, I suggest that the existing sanitary sewer line be shown on the CDP, and that the applicant specify from where to where this easement is to be granted. I further suggest that the applicant's internal trail system connect to this easement area and that consideration be given to whether or not to have the easement provide access to the archaeological site 44LD 1187 shown on the CDP.
39. In regard to proffer III.C., concerning the Library site, I note that the applicant has proposed that all permits and approvals for the building housing the Library will be obtained prior to approval of the 1,601st residential zoning permit, and that the library will be conveyed to the County on or before June 30, 2011. First, I note that the Library site is not part of this application, so the provision stating that the site will be conveyed prior to June 30, 2011 will not actually apply to the Library itself. I suggest that consideration be given to including the site in this application. Secondly, I note that the two different timing provisions could conflict with each other, depending on how far in advance of June 30, 2011 the 1,601st residential zoning permit is issued. I urge staff to ascertain whether this is a potential problem or not.
40. In regard to proffer III.F., in the eleventh line thereof, I suggest that the definition of "Net Contribution" is inaccurate. I suggest that the phrase "the Gross Contribution less the" be inserted following the phrase "The Net Contribution shall be". Additionally, in the fourteenth line of the proffer I suggest that the term "3#" be changed to "#3". Finally, I believe that the Net Contribution would equal \$12,602,774 minus the 11,271,300 credit for a total of \$1,331,474, and not the stated amount of \$11,271,300, which equals the capital facilities credit. I suggest that this be clarified.
41. In further regard to proffer III.F., in the sixteenth line of the proffer, I suggest that the phrase "and the remaining Net Contribution balance" can be deleted.

42. In further regard to proffer III.F., in the last line thereof, I suggest that the reference to "ZMAP 2002-0011/ZCPA 2002-0004" be changed to "ZMAP 2002-0013/ZCPA 2002-0004".
43. In regard to proffer III.G.3.a., in the first line thereof, I suggest that the word "Extended" be inserted, following the phrase "Millstream Drive".
44. In regard to proffer III.G.3.b., in the sixth line of the proffer, I suggest that the word "Extended" be inserted following the phrase "Millstream Drive".
45. In regard to proffer III.G.4., in the fourth line thereof, the applicant states that the zoning for the Public Use Site #4 would be PD-IP. However, I believe that the correct zoning would be either PD-CC(SC) or PD-CC(NC), but not PD-IP. I suggest that the correct zoning be referenced.
46. In regard to proffer III.G.4.a., I note that the applicant has indicated the intent to construct 100 parking spaces on Public Use Site #4 at such time as development occurs on Land Bay EE2A. The applicant has indicated that they "shall be entitled to reimbursement of the construction costs from the funds referenced in Proffer III.A.2." However, it is not clear whether those funds are sufficient to cover the costs of the school grading for which they are to be provided and to reimburse the applicant. It is not clear what is to happen if those funds are not sufficient. I suggest that this be clarified.
47. In further regard to proffer III.G.4.a., I note that while the Public Use Site #4 is to be conveyed to the County, the applicant shall be responsible for ordinary maintenance, landscaping, trash collection and snow removal, while the County shall be responsible for all other maintenance and repair. I question how this arrangement is going to work, how it is going to be documented, and who is to be responsible for the applicant's duties once the applicant has finished with development of the Property. I suggest that these matters be clarified.
48. In regard to proffer VI.C.1., in the first line thereof, I suggest that the phrase "on the Property" be inserted following the word "outfalls".
49. In regard to proffer VII.C., concerning the linkage between the commercial and residential uses, I note that the applicant has proposed amending the current requirement. I do not see how you can have one standard for the Property and another for the balance of Stone Ridge. I suggest that the change not be made.
50. These proffers will need to be signed by all landowners, and be notarized, prior to the public hearing on this application before the Board of Supervisors.